

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
AHMED A. BASSETT,

Plaintiffs,

-against-

THE CITY OF NEW YORK

Defendant.
----- x

ANSWER

07-cv-08695 (HB) (MHD)

JURY TRIAL DEMANDED

Defendant City of New York, by its attorney Michael A. Cardozo, Corporation Counsel of the City of New York, for its answer to the complaint, respectfully allege, upon information and belief, as follows.

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “1” of the complaint.

2. Denies the allegations set forth in paragraph “2” of the complaint, except admits that the City of New York is a municipal corporation organized and existing pursuant to the laws of the State of New York.

3. Denies the allegations set forth in paragraph “3” of the complaint, except admits that plaintiff purports to invoke the jurisdiction of the Court as stated therein.

4. Denies the allegations set forth in paragraph “4” of the complaint, except admits that plaintiff purports to base venue as stated therein.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “5” of the complaint.

6. Denies the allegations set forth in paragraph “6” of the complaint.

7. Denies the allegations set forth in paragraph “7” of the complaint.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "8" of the complaint, except admit that on May 18, 2005, the charges against plaintiff were dismissed.

9. Denies the allegations set forth in paragraph "9" of the complaint.

10. Denies the allegations set forth in paragraph "10" of the complaint.

11. Denies the allegations set forth in paragraph "11" of the complaint.

12. Denies the allegations set forth in paragraph "12" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

13. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

14. Defendant has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

15. At all times relevant to the acts alleged in the complaint, the duties and functions of the municipal defendant's officials entailed the reasonable exercise of proper and lawful discretion. Therefore, defendant City has governmental immunity from liability.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

16. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and was not the proximate result of any act of defendant.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

17. There was probable cause for plaintiff's arrest, detention and/or prosecution.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

18. Plaintiff provoked any incident.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

19. Punitive damages cannot be assessed against the City of New York.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE:

20. Plaintiff's claims may be barred in whole or in part by the applicable statute of limitations.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE:

21. Plaintiff has failed to comply with General Municipal Law § 50(e) and (i).

AS AND FOR A TENTH AFFIRMATIVE DEFENSE:

22. At all times relevant to the incident, defendant acted reasonably in the proper and lawful exercise of his discretion.

AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE:

23. Plaintiff's claims may be barred in whole or in part for failure to comply with the applicable conditions precedent to suit.

WHEREFORE, defendant requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
February 13, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street
New York, New York 10007
(212) 676-1347

By: /s/
 Brooke Birnbaum (BB 8338)
 Assistant Corporation Counsel
 Special Federal Litigation Division

To: Mr. Gary Fish, Esq. (via ECF)

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Corporation Counsel of the City of New York

Attorney for Defendants

100 Church Street

New York, New York 10007

Of Counsel: Brooke Birnbaum

Tel: (212) 676-1347

NYCLIS No.

Due and timely service is hereby admitted.

New York, N.Y. , 200..

..... Esq.

Attorney for